

**UNITED STATES DISTRICT COURT OF THE
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

**IN RE: DIGITEK PRODUCT LIABILITY
LITIGATION**

MDL NO. 1968

Case No.: 2:08-md-1968

Kathy McCornack, et al.
Plaintiffs,

Case No.: 2:09-cv-0671

vs.

Actavis Totowa, LLC, et al.
Defendants.

RELATED CASES

NOTICE OF ERRATA

Plaintiffs in the matter *Kathy McCornack, et al. v. Actavis, et al.*, Case No. 2-cv-0671, (“*McCornack* Plaintiffs”, “*McCornack* Action”), hereby respectfully submit this notice of errata with respect to opposition briefs (and supporting documents) filed in MDL No. 1968 and the *McCornack* Action on August 24-25, 2011. Specifically:

1. Doc. No. 129, *McCornack* Action: The caption page, title on the first page, and the first sentence of page 1 of the memorandum in opposition to the pending motion for summary judgment filed in the *McCornack* Action incorrectly referenced PACER Doc. Nos. 523-24, (the docket number for a similar motion filed in MDL No. 1968). Doc. No. 129, however, is filed in

opposition to defendants' summary judgment motion in the *McCornack* Action, Doc. Nos. 120-121.

2. Doc. No. 557, MDL. No. 1968: Plaintiff's Part 5 of 5 of the motion to seal filed as Doc. No. 557 in MDL No. 1968 was twice rejected by the CM-ECF filing system due to an embedded (but concealed) hyperlink in Plaintiffs' Exhibit 619. The first attempt to file this document was on August 24, 2011, prior to Doc. No. 549 (confirmed filed at 10:09 p.m. Eastern time). Unsuccessful efforts were made both to re-file the document, and to remove the embedded hyperlink. The document was filed, withdrawing Plaintiffs' Exhibit 619, as Doc. No. 557. Plaintiffs' request *nunc pro tunc* filing of Doc. No. 557.

Respectfully Submitted:

Dated: August 25, 2011

/s/ Don E. Ernst
Don A. Ernst (CA SBN 065726)
Attorneys for *McCornack* Plaintiffs
Ernst Law Group
1020 Palm Street
San Luis Obispo, CA. 93401
Tel: 805-541-0300
Fax: 805-541-5168
E-mail: de@ernstlawgroup.com

PROOF OF SERVICE (MDL NO. 1968)

I am a resident of the County of San Luis Obispo, California; I am over the age of eighteen years and not a party to the within entitled action; my business address is Ernst Law Group, 1020 Palm Street, San Luis Obispo, California 93401.

On August 24, 2011, I served the foregoing document on the interested parties in said action, by placing: ☐ the original, ☒ a true copy thereof as follows:

PLEASE SEE ATTACHED SERVICE LIST

☒ By Electronic Filing and Service (CM/ECF System): I filed the document(s) listed above via the Court's Electronic Filing System (CM/ECF System) which constitutes service, pursuant to the order of the above-titled Court, upon the counsel on the service list.

☐ By Regular U.S. Mail: I caused an envelope, enclosing the document(s) listed above, with postage thereon fully prepaid to be placed in the United States mail at San Luis Obispo, California.

☐ By U.S. Mail - Certified, Return Receipt Requested: I caused an envelope, enclosing the document(s) listed above, with postage thereon fully prepaid to be placed in the United States mail at San Luis Obispo, California.

☐ By Facsimile: I caused the document(s) listed above to be transmitted via facsimile to the facsimile number(s) listed in the attached service list.

☐ By Electronic Mail: I served the document(s) listed above by electronic mail and .pdf attachment through the office e-mail service for Ernst Law Group.

☐ By Personal Delivery: I caused an envelope, enclosing the document(s) listed above, to be delivered by hand to the office of addressee.

☐ By Next Business Day Delivery: I caused an envelope, enclosing copies and/or a DVD with .pdf copies of the document(s) listed above, to be delivered by Federal Express courier service, for next business day delivery.

☐ **State:** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

☒ **Federal:** I declare under penalty of perjury under the laws of the United States of America that I am an attorney licensed to practice in the State of California and authorized to practice before this Court in this action (and related MDL No. 1968), and that the foregoing is true and correct.

Executed on August 24, 2011, at San Luis Obispo, California.

/s/ Don A. Ernst
Don A. Ernst
Attorneys for *McCornack* Plaintiffs
Ernst Law Group
1020 Palm Street
San Luis Obispo, CA. 93401
Tel: 805-541-0300
Fax: 805-541-5168
E-mail: de@ernstlawgroup.com

PROOF OF SERVICE LIST

SHOOK, HARDY & BACON, LLP Harvey L. Kaplan Madeline M. McDonough Sarah E. Drewes Valerie J. Blevins 2555 Grand Blvd. Kansas City, MO 64108-2613 Telephone : (816) 474-6550 Fax: (816) 421-5547 E-mail: hkaplan@shb.com mmcdonough@shb.com hpsmith@shb.com sdrewes@shb.com vblevins@shb.com	Attorneys for Defendants, Mylan Bertek Pharmaceuticals, Inc., Mylan Pharmaceuticals, Inc., Mylan, Inc., UDL Laboratories, Inc.
SHOOK, HARDY & BACON, LLP Hunter K. Ahern 600 Travis, Suite 1600 Houston, TX 77002-2992 Telephone : (713) 227-8008 Fax: (713) 227-9508 E-mail: hahern@shb.com	Attorneys for Defendants, Mylan Bertek Pharmaceuticals, Inc., Mylan Pharmaceuticals, Inc., Mylan, Inc., UDL Laboratories, Inc.
SHOOK, HARDY & BACON, LLP Ericka L. Downie 600 14 th Street NW, Suite 800 Washington D.C. 20005 Telephone: (202) 662-4864 Fax: (202) 783-4211 Email: edownie@shb.com	Attorneys for Defendants, Mylan Bertek Pharmaceuticals, Inc., Mylan Pharmaceuticals, Inc., Mylan, Inc., UDL Laboratories, Inc.

<p>SHOOK, HARDY & BACON, LLP Alicia J. Donahue 1 Montgomery Street, Suite 2700 San Francisco, CA 9410-4-4505 Telephone: (415) 544-1900 Fax: (415) 391-0281 Email: adonahue@shb.com</p>	<p>Attorneys for Defendants, Mylan Bertek Pharmaceuticals, Inc., Mylan Pharmaceuticals, Inc., Mylan, Inc., UDL laboratories, Inc.</p>
<p>ALLEN GUTHRIE & THOMAS, PLLC Rebecca A. Betts David B. Thomas P.O. Box 3394 Charleston, West Virginia 25333-3394 Telephone : (304) 345-7250 Fax: (304) 345-9941 E-mail: rabetts@agmtlaw.com dbthomas@agmtlaw.com</p>	<p>Attorneys for Defendants, Actavis Elizabeth, LLC, Actavis, Inc., Actavis Totawa, LLC, Mylan Bertek Pharmaceuticals, Inc., Mylan Pharmaceuticals, Inc., Mylan, Inc., UDL laboratories, Inc.</p>
<p>TUCKER ELLIS & WEST, LLP Richard A. Dean Matthew P. Moriarty Kristen L. Mayer 925 Euclid Ave., Suite 1150 Cleveland, OH 44115-1414 Telephone : (216) 592-5000 Fax: (216) 592-5009 E-mail: richard.dean@tuckerellis.com matthew.moriarty@tuckerellis.com kristen.mayer@tuckerellis.com</p>	<p>Attorneys for Defendants, Actavis Elizabeth, LLC, Actavis, Inc., Actavis Totawa, LLC</p>
<p>MOTLEY & RICE, LLC Fred Thompson, III, Esq. Meghan Johnson Carter 28 Bridgeside Blvd. Mt. Pleasant, SC 29464 Telephone : (800) 768-4026 E-mail: fthompson@motleyrice.com mjohnson@motleyrice.com</p>	<p>Plaintiffs' Counsel Steering Committee, Lead Counsel, in Related MDL Case No: 2:08-md-1968</p>

<p>FRANKOVITCH ANETAKIS COLANTONIO & SIMON Carl N. Frankovitch, Esq. 337 Penco Road Weirton, WV 26062 Telephone : (800) 564-4050 E-mail: carln@facslaw.com</p>	<p>Plaintiffs' Counsel Steering Committee in Related MDL Case No: 2:08-md-1968</p>
<p>BELL & BANDS, PLLC Harry Bell, Esq. 30 Capitol Street P.O. Box 1723 Charleston, WV 25326 Telephone : (866) 912-3007 E-mail: hfbell@belllaw.com</p>	<p>Plaintiffs' Liaison Counsel in Related MDL Case No: 2:08-md-1968</p>
<p>WILLIAMSON & RUSNAK Michael Kerensky, Esq. 4310 Yoakum Blvd. Houston, TX 77006 Telephone: 713-223-3330 Fax: 713-223-0001 Email: mike@jimmywilliamson.com</p>	<p>Plaintiffs' Counsel in the Related <i>Vega</i> Action in MDL No. 1968</p>
<p>THE MILLER FIRM,LLC Pete Miller, Esq. The Sherman Building 108 Railroad Avenue Orange, Virginia 22960 Telephone: 540-672-4224 Fax: 540-672-3055 Email: PMiller@millerfirmllc.com</p>	<p>Plaintiffs' Counsel in the Related Action in MDL No. 1968</p>

<p>PROVOST UMPHREY LAW FIRM, LLP Christopher T. Kirchmer, Esq. 490 Park Street Beaumont, TX 77704 Telephone: 409-299-5178 Fax: 409-838-8888 Email: CKirchmer@provostumphrey.com</p>	<p>Plaintiffs' Counsel in the Related Action in MDL No. 1968</p>
<p>WELEBIR, TIERNEY & WECK Douglas F. Welebir, Esq. 2068 Orange Tree Lane, Suite 215 Redlands, CA 92374 Telephone: 909-748-5365 Fax: 909-335-0452 Email: dfw@wtw-law.com</p>	<p>Plaintiffs' Counsel in the Related Action in MDL No. 1968</p>